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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,740	02/22/2002	Charles S. Musso JR.	21524/1100	4722

7590 10/03/2003

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EXAMINER

KRAMER, DEAN J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,740

Applicant(s)

MUSSO ET AL.

Examiner

Dean J. Kramer

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Hollinrake et al..

The patent to Hollinrake et al. shows a dump truck that contains all of the limitations as broadly as recited in the above claims including longitudinal support structures that are trapezoidal in cross-section (see Figs. 7, 8, and 11) with no transverse supports attached therebetween.

3. Claims 1, 2, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gaddis et al. (U.S. Pat. # 5,690,466).

The Gaddis et al. ('466) patent shows a pair of longitudinal supports (unreferenced but shown on either side of the trough 24 in Fig. 2), a planar support plate (28), a floor section (14), and a conveyor system (22). There are no transverse supports shown between the longitudinal supports.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4, 6, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Hollinrake et al. or Gaddis et al. ('466) in view of Bibeau et al..

The Hollinrake et al. and Gaddis et al. ('466) dump trucks were presented above in sections 2 and 3, respectively, and substantially show the invention as set forth in claims 4, 6, 15, and 17 except for the cross-sectional shapes of their longitudinal supports being triangular or at least one transverse support located adjacent the tailgate.

The patent to Bibeau et al. shows several longitudinal supports along its truck body some (38) of which are generally triangular in cross-section. Further, Bibeau et al.

Art Unit: 3652

also shows a transverse support member (76,68) attached to longitudinal supports (36) and floor sections (16b) adjacent to its tailgate assembly (see Figure 2).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the longitudinal supports of either the Hollinrake et al. or Gaddis et al. ('466) truck body with generally triangular cross-sectional shapes as taught by Bibeau et al.. It also would have been obvious to provide at least one transverse support member adjacent the rear end of either the Hollinrake et al. or Gaddis et al. ('466) truck body similar to that shown in Figure 2 of the Bibeau et al. patent in order to create additional support for the body in this region.

7. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Hollinrake et al. or Gaddis et al. ('466) in view of Molenaar et al..

The patent to Molenaar et al. shows longitudinal supports (32) on opposing sides of its conveyor assembly wherein the cross-sectional shape of these supports (32) is an "H". It would have been obvious to a person having ordinary skill in the art to use H-beams as the longitudinal supports in either the Hollinrake et al. or Gaddis et al. ('466) truck bodies as is shown old and well known in the Molenaar et al. patent as an alternative yet functionally equivalent means of supporting the body.

8. ³ Claims 7-11 and ¹⁴ 18-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaddis et al. ('466) in view of Hollinrake et al..

The Gaddis et al. ('466) truck body was presented above in section 3 and substantially shows the invention as set forth in claims 7-11 and 18-30 except that its members (62) are inclined but not "curved".

However, it is old and well known to provide curved lower corners on dump truck bodies as shown in Figure 7 of the Hollinrake et al. patent.

Thus, it would have been obvious to one of ordinary skill in the art to at least partially curve the members (62) of the Gaddis et al. ('466) assembly similar to that shown in Figure 7 of the Hollinrake et al. patent such that the concave shape of the resulting members would increase the space within the truck body. It is noted that the resulting pivoted members could either be removably attached to each side wall with a removable hinge pin or permanently attached with the hinge welded thereto.

Drawings

9. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "18". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

10. It is pointed out that the last document listed on the IDS submitted November 19, 2002 has been lined through because a pending application should not be included on an Information Disclosure Statement.

Conclusion

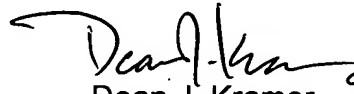
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Kerr et al. patent shows curved side walls on its dump truck body.

Art Unit: 3652

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Dean J. Kramer 9-23-03
Primary Examiner
Art Unit 3652

Djk
9/23/03